

FILED
DISTRICT COURT OF GUAM

APR 14 2008

JEANNE G. QUINATA
Clerk of Court

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8 **DISTRICT COURT OF GUAM**

9 **TERRITORY OF GUAM**

10 **JULIE BABAUTA SANTOS, et. al.,**

11 **Petitioners,**

12 **-v-**

13 **FELIX P. CAMACHO, et. al.**

14 **Respondents.**

Civil Case No. 04-00006

Civil Case No. 04-00038

Civil Case No. 04-00049

CHARMAINE R. TORRES'
MOTION TO AMEND FINAL EIC
CLASS ACTION ORDER

15 **CHARMAINE R. TORRES, et al.,**

16 **Plaintiffs,**

17 **-v-**

18 **GOVERNMENT OF GUAM, et al.,**

19 **Defendants.**

20 **MARY GRACE SIMPAO, et al.,**

21 **Plaintiffs,**

22 **-v-**

23 **GOVERNMENT OF GUAM,**

24 **Defendant.**

25 **-v-**

26 **FELIX P. CAMACHO, Governor of Guam,**

27 **Intervenor-Defendant.**

ORIGINAL

1 Before this Honorable Court comes Plaintiff Charmaine R. Torres, respectfully moving to
2 amend the Final EIC Class Action Order (“the Final Order”) pursuant to Federal Rule of Civil
3 Procedure 60(a) or, alternatively, Federal Rule of Civil Procedure 59(e).

4 Federal Rule of Civil Procedure 60(a) permits a court, on motion or at any time on its own
5 initiative, to “correct a clerical mistake or mistake arising from oversight or omission whenever
6 one is found in a judgment, order, or other part of the record.” “The error can be corrected
7 whether it is made by a clerk or by the judge.” Blanton v. Anzalone, 813 F. 2d 1574, 1577 (9th
8 Cir. 1987). In determining whether to alter an order pursuant to Rule 60(a), the court’s focus is
9 on what the court originally intended to do. Sanchez v. City of Santa Ana, 936 F. 2d 1027, 1033
10 (9th Cir. 1991). Rule 60(a) is limited to correcting errors which arise from omission and may not
11 be used to correct more substantial errors, such as errors of law. Id.

13 In this case, the Court reduced by 89.08 hours the 318.06 hours claimed by one of
14 Plaintiff’s attorneys, Delia Lujan, and so awarded 228.98 total hours for Attorney Lujan’s work.
15 (Final Order at 78.) As Attorney Lujan’s hourly rate in this matter is \$195 per hour, the total fees
16 awarded for 228.98 hours should be \$44,651.10. However, the Court allowed for Attorney
17 Lujan’s work only \$4,651.10 in total fees. (Id.) Plaintiff submits that it was the Court’s intention
18 to award fees for Attorney Lujan’s work based on an hourly rate of \$195 and 228.98 total hours
19 awarded and, therefore, the \$4,651.10 total fees awarded is a clerical error.

21 As the Court arrived at the \$211,626.10 Total Fees Allowed for *Torres* counsel by
22 including only the \$4,651.10, and not the correct figure of \$44,651.10, for Attorney Lujan’s work,
23 the Total Fees Allowed and Fees Awarded is also incorrect. Substituting the \$44,651.10 for the
24 \$4,651.10, the Total Fees Allowed and Fees Awarded for *Torres* counsel should be \$251,626.10,
25 and not \$211,626.10 as stated in the Final Order. (Final Order at 78.)¹

28 ¹Plaintiff further notes that on page 93 of the Final Order, the Court stated that the Fees
Awarded for *Torres* counsel is \$211,262.10. However, this contradicts the amount stated in page

1 Alternatively, Plaintiff moves for amendment pursuant to Federal Rule of Civil Procedure
2 59(e), which permits a judgment to be altered or amended to correct manifest errors of fact or law
3 upon which the judgment is based. McDowell v. Calderon, 197 F. 3d 1253, 1255 n.1 (9th Cir.
4 1999). As stated above, it is Plaintiff's belief that the Court intended to award \$44,651.10 for
5 Attorney Lujan's work, based on 228.98 total hours awarded and an hourly rate of \$195, and that
6 the Total Fees Allowed for *Torres* counsel should then be \$251,626.10. If this is not a clerical
7 error correctable under Rule 60(a), then it is an error of fact that \$195 multiplied by 228.98 equals
8 only \$4,651.10. As this error of fact informed the Court's Final Order regarding the total award
9 of fees for *Torres* counsel, Plaintiff requests that the Court amend the Final Order to provide
10 instead for a total fees award for *Torres* counsel of \$251,626.10.

12 Based on the foregoing, Plaintiff respectfully requests that the Court amend the Final EIC
13 Class Action Order to provide that the Total Fees Allowed for Attorney Delia Lujan's work is
14 \$44,651.10 and the Total Fees Allowed and Fees Awarded for *Torres* counsel is \$251,626.10.

15 **RESPECTFULLY SUBMITTED** this 14th day of April, 2008.

16 **LUJAN AGUIGUI & PEREZ LLP**

17
18
19 By:


20 **DELIA S. LUJAN**

Attorneys for Plaintiff Charmaine R. Torres

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28 78 for Total Fees Allowed, which is \$211, 626.10. Plaintiff submits that it was clerical error to
state on page 93 the amount of \$211,262.10. Nonetheless, both amounts are erroneous due to the
clerical error regarding the Total Fees Allowed for Attorney Delia Lujan's work.